THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 30-08-2005

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WRIT PETITION No.19041 OF 2005

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Between:

M.Laxminarayana . . .Petitioner

And

The Largesized Cooperative Society Ltd and others . . .Respondents

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.19041 OF 2005

O R D E R:

The petitioner was appointed as a Secretary in the first respondent society. Through proceedings dated 31-10-1998, he was removed from service on the ground that he has committed certain financial irregularities. He was prosecuted in C.C.Nos.30 to 33 of 1998 on the file of Special Court for trial of offences under A.P.C.S. Act, Vijayawada, on the allegations of misappropriation. The petitioner was acquitted in the said cases through judgment dated 10-12-2001.

The petitioner filed W.P.No.8126 of 2003 before this Court pleading that in view of his acquittal in the criminal cases, he is entitled to be reinstated. The writ

petition was disposed of on 14-10-2003 leaving it open to him to make appropriate representation. Accordingly, he made a representation with a prayer to reinstate him. Through a letter dated
25-11-2003, the first respondent informed the petitioner that in case, he deposits a sum of Rs.2,99,043/-, his request for reinstatement would be considered. He challenges the same.

Heard the learned counsel for the petitioner and the learned Government Pleader for Cooperation.

Admittedly, the petitioner was dismissed from service through proceedings dated 31-10-1998. The said proceedings were not challenged before any forum. On the ground that he was acquitted in the criminal cases, he made a representation to the first respondent, who in turn, issued the impugned letter. The representation of the petitioner for reinstatement and the reply given by the first respondent are almost in the form of offer and counter offer. They do not fit into any provisions of law. As long as an order of dismissal holds the field, the petitioner cannot be reinstated. If the first respondent has chosen to accept the request of the petitioner subject to certain conditions, the petitioner has to fulfill those conditions in case, he wants to get the benefit of it. There is hardly any scope to decide the legality of these aspects.

Learned counsel for the petitioner submits that his client did not assail the order of dismissal for all these years on account of the pendency of the criminal cases and the pursuit of remedy in this Court etc.

If that be so, the petitioner can be permitted to approach the concerned forum. Basically, the authority under the Shops and Establishments Act is vested with the power to condone the delay. The factors referred to above can certainly be taken into account.

Having regard to the facts and circumstances of the case, the writ petition is disposed of leaving it open to the petitioner to workout his remedies before the authority under the Shops and Establishments Act. If an appeal is preferred by the petitioner within four weeks from today, the same shall be treated as having been presented within limitation and it shall be decided in accordance with law.

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(L.NARASIMHA REDDY, J)

30th AUGUST, 2005.

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